

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
GEORGE A. HORMEL & COMPANY,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHB No. 1082

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$250.00 civil penalty, came before the Pollution Control Hearings Board (W. A. Gissberg, presiding, Art Brown, Chairman, and Chris Smith) at a formal hearing on December 14, 1976 in Seattle, Washington.

Appellant appeared through its plant manager, Deryl Arnold; respondent appeared by and through its attorney, Keith D. McGoffin. Olympia court reporter, Jennifer Roland, recorded the proceedings.

Having heard the testimony, examined the exhibits, and being fully advised, the Pollution Control Hearings Board makes these

1 FINDINGS OF FACT

2 I

3 In accordance with RCW 43.21B.260, respondent has filed a certified
4 copy of its Regulation I and amendments thereto which we notice.

5 II

6 On August 20, 1976, at about 1:15 p.m. respondent's inspector saw
7 white smoke coming from appellant's number 3 afterburner located at
8 its plant in Renton, Washington. The inspector observed and recorded
9 an emission ranging from 60 percent to 70 percent opacity for a period
10 of six consecutive minutes. At the time of the observation, appellant's
11 employees were not aware that the afterburner was malfunctioning. For
12 this occurrence, respondent issued a Notice of Violation to appellant
13 from which followed an assessment of a \$250.00 penalty. This penalty is
14 the subject matter of this appeal.

15 III

16 Upon being advised of the emission, appellant determined that it
17 was a result of maintaining too low a temperature in its number 3 after-
18 burner. Appellant thereafter remedied the malfunction and reminded its
19 employees of proper operating procedures and instituted additional
20 periodic checks of the equipment. During the last year, appellant has
21 spent six thousand dollars to maintain its afterburner.

22 IV

23 Appellant has had a prior violation of Regulation I which occurred
24 on May 24, 1972. No civil penalty was assessed at that time.

25 V

26 Section 9.03(b) of Regulation I makes unlawful the emission of an

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 air contaminant for a period exceeding three (3) minutes in any one
2 hour which is of an opacity greater than 20 percent. Section 3.29 provides
3 for a civil penalty of up to \$250.00 per day for each violation of
4 Regulation I.

5 VI

6 Any Conclusion of Law which should be deemed a Finding of Fact is
7 hereby adopted as such.

8 From these Findings, the Pollution Control Hearing Board comes
9 to these

10 CONCLUSIONS OF LAW

11 I

12 The Board has jurisdiction over the persons and subject matter of
13 this proceeding.

14 II

15 Appellant violated Section 9.03(b) of Regulation I for which a
16 penalty of \$250.00 was properly assessed. Because of its record and
17 efforts, \$125.00 of the fine should be suspended.

18 III

19 Any Finding of Fact which should be deemed a Conclusion of Law
20 is hereby adopted as such.

21 From these Conclusions, the Board makes and enters its

22 ORDER

23 The \$250.00 civil penalty is affirmed, provided however, that
24 \$125.00 of the civil penalty is suspended on condition that appellant
25 not violate respondent's regulations for a period of six months after
26 the date of this Order.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 DATED this 4th day of January, 1977.

2 POLLUTION CONTROL HEARINGS BOARD

3 Art Brown
4 ART BROWN, Chairman

5 W. A. Gissberg
6 W. A. GISSBERG, Member

7 Chris Smith
8 CHRIS SMITH, Member

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER